

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Notice of Proposed Rulemaking)	
)	CS Docket No. 02-52
Appropriate Regulatory Treatment for)	
Broadband Access to the Internet Over)	
Cable Facilities)	
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COMMENTS OF RICHLAND COUNTY

These comments are filed by Richland County in support of the comments filed by the Alliance of Local Organizations Against Preemption (the "Alliance"). Like the Alliance, Richland County believes that:

(a) local communities should be able to require cable operators to obtain additional authorizations to use and occupy public rights of way to provide cable services, and to enforce existing authorizations that have been granted for the service;

(b) should be able to obtain fair and reasonable compensation for use and occupancy of the public rights of way to provide non-cable services; and

(c) should be able to regulate cable companies in their provision of non-cable services, as provided under the Cable Act.

These comments will also provide information regarding the status of cable modem service in our community.

1. Our community and the status of cable modem service.

Richland County is a County of approximately 321,000. It is served by Time Warner, which in Richland County serves approximately: 41,000 Broadcast Tier subscribers; 38,000 Cable Tier subscribers; 16,000 Digital Cable subscribers; and 7,000 Internet Cable Modem subscribers. It has a subscriber potential of approximately 81,000 in front of the plant. Time Warner has 116 6-MHz RF downstream channels and 6 RF upstream channels. Using the same public rights of way that it uses to deliver Cable TV, Time Warner is using those public rights of way to offer Internet Cable modem service to our community.

2. Our franchise and cable modem service.

Our franchise was issued in 1992 and did not directly address cable modem service. However, under our franchise the definition of gross revenues is broad enough to include cable modem service. “Gross Revenue shall mean any and all revenues for periodic services, for installations, relocations of outlets, and all compensation and other consideration received from subscribers within the County....” “In consideration of the rights and privileges granted by its franchise, each franchisee shall pay to the County a franchise fee of at least five percent (5%) of its gross revenues annually....” Pursuant to that provision, we were entitled to receive franchise fees on cable modem service. We received \$210,000 in cable modem franchise fees in 2001. These payments were made in consideration of the grant of the franchise. Our franchise was written to permit the operator to provide both cable services and other services, as long as the operator complied with the franchise terms. We estimate that we will lose over \$1,000,000 over the next five (5) years if we cannot charge a franchise fee on revenues from cable modem service.

3. How we regulate cable modem service.

Richland County receives complaints from customers regarding the services provided by cable operators. These include complaints about traditional video programming services and about cable modem services. Responding to these complaints requires staff time and effort.

There are many unique customer service problems associated with cable modem services. In addition, it is often difficult, if not impossible to separate regulation of cable modem service from the regulation of cable service in many critical respects:

- Cable modem service is marketed jointly with cable service.
- When we get complaints about promotional practices, the complaint may apply to both services.
- A single bill is sent for cable modem and cable services, so billing complaints involve both.
- Customer service calls go to a single number, so telephone-answering policies affect both.
- A customer may call a single location to schedule installation of cable service and cable modem service, and customer complaints about installations and missed appointments may relate to both services. As a result, when one service has problems, the quality of the other service can be affected.

The cable operator advises customers on their bill that they can contact our office with complaints. As far as we can tell, at no time does the operator advise the customer that protections accorded with respect to cable service do not apply with respect to cable modem service. In our view, there is a substantial and continuing need to protect consumers of cable modem service, in light of the complaints we receive, and because of its close tie to video services.

Also, there are important protections that did apply under our franchise that may not apply if cable modem service is NOT a cable service. If we cannot regulate cable modem service, it will be more difficult to protect consumers. When the County receives complaints, the burden will be upon us to separate cable television service complaints from cable modem service complaints. EXAMPLES:

- Provide cable modem service throughout an area and prohibit redlining
- Prohibit discriminatory practices against potential customers
- Prohibit a demand for exclusive contracts as a condition of providing service.

4. Our community and broadband deployment.

Our community believes it is very important to encourage broadband deployment, and to encourage development of broadband applications. We also believe that in order to achieve the promise of broadband, broadband has to be available to the entire community, as far as possible. We want to avoid knowledge and opportunity gaps created because some parts of the community have access to broadband information, while others do not.

To that end, our community devotes significant resources to take advantage of the information highway and to extend its benefits to all. EXAMPLES:

- E-gov initiatives;
- Bringing the Internet to schools

The funds that we obtain from cable modem franchise fees can help support these and other activities. If we lose those funds, it will be more difficult to protect consumers, and to promote broadband deployment in this community.

Respectfully submitted,

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